  
Alfred C. Smith  
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2005 MAR 22 PM 1:27

FILED  
EPA REGION VIII  
HEARING CLERK

In the Matter of:

Kenyon Noble Lumber Co., Inc.

Respondent.

)  
)  
) **EXPEDITED CONSENT AGREEMENT**  
)  
) DOCKET NO.: CWA-08-2005-0014

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Davison's Exxon Service, by their undersigned representatives, hereby settle the civil cause of action arising out of violations of the Spill Prevention Control and Countermeasures (SPCC) Plan noted in your 308 Information Request response dated January 29, 2005, and agree as follows:

The Clean Water Act (the Act), as amended, 33 U.S.C. § 1321(b)(6), authorizes the Administrator of EPA to assess administrative penalties against any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates facilities identified as follows:

Kenyon Noble Ready Mix, Brick Block and Tile, and Lumber Company  
North Rouse Avenue  
Bozeman, Montana 59715

Kenyon Noble Ready Mix, Bozeman Brick Block and Tile, and Portable, Inc.  
889 Valley Center Road  
Bozeman, Montana 59718-9771

Kenyon Nobel Ready Mix  
47755 Gallatin Road  
Big Sky, Montana 59716

Respondent admits its facilities are subject to the SPCC regulations.

Respondent agrees to correct the items cited on the attached List of SPCC Violations within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion. Send a copy of the SPCC Plans to the person named below.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$ 3,000.00 which shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this agreement, to:

Jane Nakad  
Technical Enforcement Program (8ENF-UFO)  
USEPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,  
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By: Elisabeth Evans

Elisabeth Evans, Director  
Technical Enforcement Program

21 March 2005

Date

**Kenyon Noble Lumber Company, Inc., Respondent.**

By: Jennifer Dedman

Date: 18 March 2005

Name:

Jennifer Dedman

Title:

HR/Safety Director

### List of SPCC Violations

#### SPCC Plan [40 C.F.R. § 112.3]:

Failure to prepare and implement facility SPCC Plans in accordance with 40 C.F.R. §§ 112.7 and 112.8,

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter **KENYON NOBLE LUMBER CO., INC.**, **DOCKET NO.: CWA-08-2005-0014** was filed with the Regional Hearing Clerk on March 22, 2005.

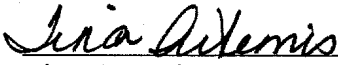
Further, the undersigned certifies that a true and correct copy of the document was delivered to David Janik, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on March 22, 2005, to:

Mr. William A. Ogle  
Kenyon Noble Companies  
25 E. Mendenhall Street  
Bozeman, MT 59711

And

Commander  
Finance Center (OGR)  
U. S. Coast Guard  
1430 A Kristina Way  
Chesapeake, VA 23326

March 22, 2005

  
Tina Artemis  
Regional Hearing Clerk



Printed on Recycled Paper